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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/614,231	07/12/2000	Fritz Gfeller	SZ998-038	1820

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EXAMINER

TU, CHRISTINE TRINH LE

ART UNIT	PAPER NUMBER
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2133

DATE MAILED: 10/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/614,231

**Applicant(s)**

GFELLER ET AL.

**Examiner**

Christine T. Tu

**Art Unit**

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2000.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,7-13 and 15-19 is/are rejected.
- 7) ☒ Claim(s) 3,4,6 and 14 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit:

1. Claims 16 and 18 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a. Claim 16:

At line 2, insert a “,” (commas) after the term “(RR\*)”.

b. Claim 18:

The term “such as” at line 2 should be avoided because this term leads to the uncertainty of whether or not anything is actually recited.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 2, 5, 7-13 and 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matsukane et al. (5,467,341 and Matsukane hereinafter) in view of Wallace (5,481,548).

Claims 1, 5, 10 and 12:

Matsukane discloses the invention substantially as claimed. Matsukane shows (figure 7) a system having a mobile station (701) and a computer server (702). The mobile station (701)

Art Unit:

comprises a packet transmitter (717) for transmitting data packets, and a statistics calculator (707) having a counter being updated for evaluating the link quality over a predetermined time interval T. Link quality is compared with one or more threshold values THR in a threshold comparator (704). If one or more thresholds THR is exceeded, an indicator (705) generates a indication (column 12 lines 41-column 13 line 31, column 8 lines 22-38).

Matsukane does not teach the total counter, the error counter and the division unit. Wallace, however, teaches that a performance of a digital data transmission circuit, comprises features of (a) determining the number of messages with errors, (b) determining the number of reject messages, © determining the total number of messages transmitted, (d) selecting the largest of the numbers respectively determined in steps (b) and (c), then dividing the selected number by the total number determined and multiplying the result of that division by 100 (column 22 lines 3-27).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to realize that Matsukane's statistic calculator (707) would have comprised of a counter for determining the number of message with errors, a counter for determining the total number of messages transmitted and a division unit for dividing the number of message with errors by the total number of determined (as the method suggested by Wallace). The artisan would have been motivated to do so because Matsukane teaches that (1) the statistics calculator (701) evaluates the link quality and (2) the link quality is determined by computing the percentage of number of erroneous packets divided by the total data packets were transmitted during an interval T (column 12 lines 49-50 and column 8 lines 22-49).

Art Unit:

Claims 2 and 13:

Matsukane's thresholds may be updated to compensate for different environments or indifference on the part of the user (column 8 lines 41-44).

Claim 7:

Matsukane teaches the parameters N, T, M, THR (715) for controlling the overall performance of the mobile station (701) (figure 7, column 12 lines 60-63).

Claim 8:

Neither Matsukane nor Wallace teaches that the error counter is located in the division unit. However, it would have been obvious to one skilled in the art at the time the invention was made to realize that the error counter could have been located in the division unit. The artisan would have been motivated to realize so because locating the error counter inside or outside of the division unit would not affect performance of the error counter nor division unit.

Claim 9:

Matsukane teaches that the Threshold comparator (704) determines whether the link quality exceeds the threshold THR. If the link quality does exceed, an indication is provided to user (column 13 lines 23-27).

Claim 11:

Matsukane teaches that the network may employ infrared transmission medium (column 1 lines 36-38).

Art Unit:

Claim 15:

Matsukane's data packets are modulated (column 18 lines 1-8).

Claims 16 and 17:

Matsukane teaches that the number of predetermined packets, the time interval for repeating the transmissions may be changed to adapt to different requirements and environments (abstract lines 16-20).

Claim 18:

Matsukane further teaches that such above methods can be put in software components (column 13 lines 36-42).

Claim 19:

Claim 19 is rejected for reasons similar to those set forth against claims 12 and 18.

5. Claims 3-4, 6 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit:

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christine T. L. Tu whose telephone number is (703) 305-9689. The examiner can normally be reached on Monday to Thursday from 8:30 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady, can be reached on (703) 305-9595.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

8. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231


**or faxed to:**

(703) 746-7238 (for formal after-final communications intended for entry),  
(703) 746-7239 (for formal communications intended for entry),

**Or:**

(703) 746-7240 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA. 22202, Sixth Floor (Receptionist).

  
Christine T. L. Tu  
Primary Patent Examiner  
Art Unit 2133

September 24, 2002